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09/581,271	10/26/2000	Yoichiro Sako	6715/60007	2353

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09/20/2005

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EXAMINER

TRAN, TONGOC

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/581,271

Applicant(s)

SAKO ET AL.

Examiner

Tongoc Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 7-9, 11, 13-15, 18-20 and 23-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 7-9, 11, 13-15, 18-20, 23-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed on 6/23/2005. Claims 2-4, 7-9, 11, 13-15, 18-20 and 23-44 are pending.

Response to Arguments

2. Response to Applicant's remark to U.S.C. 102 rejection:

In response to Applicant's remark in respect to amended claims 2-4, 7-9, 11 and 23, Applicant contends that the cited prior art, Shear fails to disclose that the external apparatus identifying means prohibit the transmission when determines that the external apparatus is a data storage apparatus having the storage memory means (claim 2); allowing the start of data transmission accordance with the version of the external apparatus (claim 3); determine whether the external apparatus is a copyright-related apparatus (claim 4); according with an amount of output data or the speed of reproduction of the output data (claims 7 and 8); according to the type of medium (claim 9); charging fee is decided in accordance with the kind of external apparatus (claim 11). Applicant's amendment appears to change some of the wordings but does not further limit the scope of the claims. Therefore, Examiner is herein incorporating the response to Applicant's argument previously presented in last office action. Furthermore, Shear teaches that the invention is related to information protection and rights management techniques having selectable applicability depending upon, for example, the resources of the device (external apparatus) being used by the consumer, e.g. personal computer or standalone player) (col. 1, [0003]), or "provide control,

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rights management and/or identification solutions for the digital realm...can be implemented in consumer appliances, computers, and other devices [0031], Shear further discloses the control of copy right information can be, for example, type of appliances, available resources, and/or rights [0034]...class of appliance or completely different control information [0035]; "the copy may be playable only on the intended receiving devices, class(es) of devices, and/or devices in a particular region in one non-limiting example and rights related to use of such copy may differ according to these and/or other variables [0056]; "If a device, detects that a digital property is about to be played on a device and/or other class(es) of device other than the one it was intended for, it can be programmed to refused to play that copy..."for example, be enforced on a computer equipped to provide rights management protection...rules may specify not to play a certain film and/or other content on any device other than a consumer appliances and/or classes of appliances...these same powerful capabilities could be used to specify different usage rules and payment schemes that would apply when played on a computer...different pricing based upon different geographic or legal locales where content is played [0057]; "determination of these independent delivered rules is entirely up to the rightsholder(s) and /or others in a given model [0059]; "provides secure rights management facility that may for example, permit more invasive or extensive use of the content stored on disk...prevent any copying of content stored by disk [0168], "the controls may prevent platform from releasing content except to certain types of output devices that can not be used to copy the content...[0282]. Therefore, Examiner asserts that the above cited portion of the

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prior art met the limitations of claims 2 —4, 9 and 11. In respect to Applicant's argument that Shear is silent about "the function of allowing a start of transmission of output data being controlled in accordance with an amount of output data". However, the cited limitation can broadly be interpreted as the transmission of data only permitted when the request of the downloaded data has been completed. Therefore, Shear's teaching of delivery of data content according to different copy rights and rules met the cited limitation. In response to Applicant's remark that Shear is silent about the function of "allowing a start of the transmission of output data based on the speed at which the output data has been reduced" or "the speed of reproduction of the output data". Examiner notes that these are not recited in the claimed limitation.

Applicant further contends that claim 23 recites the control of outputting data is "in accordance with the types of interfaces" whereas the cited prior art, Shear teaches the transmission of outputting data is in accordance to the types of output devices. Examiner asserts that the cited prior art met the claimed limitation since the term interface can broadly be interpreted as any connectivity that enables the transmission of data to be transmitted to the outputting devices. Since Shear teaches the transmission of data is permitted in accordance with the certain types of output devices, therefore, the limitation is met.

Response to Applicant's remark to U.S. C. 103 rejection:

In response to Applicant's remark in respect to claim 41, Applicant contends that that Ottenson et al. does not suggest the feature of "fee charging information is stored in a recording medium together with the data to be

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transmitted to an external apparatus and fee charging information is updated whenever the data transmission has occurred". Examiner notes that the cited claimed limitation does not recite as Applicant presented. Rather the claimed limitation recites, "a fee charging control step is to perform the fee charging process by updating, in accordance with the fee to be charged, data recorded on the recording medium and corresponding to a sum of fees that can be charged for the recording medium", (Ottenson, col. 8, lines 5-9, e.g. each subsequent viewing of the downloaded presentation is detected by the intelligent set-top control unit, thus allowing for automatic billings of each program presentation to the customer's account...). The cited limitation of "data recording on the recording medium is interpreted as the downloaded data that is being outputted and the fee is charged according. Examiner further taken the office notice for the cited limitation of "stop the transmission of the output data through the interface when the data corresponding to the sum of fee reaches or exceeds a predetermined value". This feature is well known in the art, e.g. controlling output according to what the consumer pays to view, therefore, it would have been obvious to one of ordinary skill in the art to conclude feature of controlling the amount of output according what is requested.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-4, 7-9, 11, 13-15, 18-20 and 23-40 are rejected under 35 U.S.C.

102(e)

as being anticipated by Shear (US Patent Application Publication

US200110042043).

In respect to claim 2, Shear discloses the data transmitting apparatus, comprising:

An interface that can be connected to various external apparatuses; External-apparatus identifying) means for determining a type of an external apparatus connected to the interface and outputting data representing the type of the external apparatus and control means for controlling transmission of output data to an external apparatus through the interface, in accordance with the result of determining the type of the external-apparatus identifying means, (Shear, [0282]) wherein the external-apparatus identifying means determines whether the external apparatus is a data storage apparatus that has a build-in memory means for storing data input through the interface, and the control means stops the transmission of output data to the external apparatus when the external-

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apparatus identifying means determines that the external apparatus is the data storage apparatus having the built-in memory (see Shear, [0003, 0030-0031, 0054, 0282, 0168]).

In respect to claim 3, Shear discloses the data transmitting apparatus, comprising:

An interface that can be connected to various external apparatuses; External-apparatus identifying means for determining a type of an external apparatus connected to the interface and outputting data representing the type of the external apparatus; and control means for controlling transmission of output data to the external apparatus through the interface, in accordance with the result of determining the type of the external-apparatus identifying means (see Shear, [0282, 0056]), wherein the external-apparatus identifying means determines a version of the external apparatus, and the control means controls the transmission of output data to the external apparatus through the interface, in accordance with the version of the external apparatus (see Shear [0070, 0056]).

In respect to claim 4, Shear discloses the data transmitting apparatus, comprising:

An interface that can be connected to various external apparatuses; External-apparatus identifying means for determining a type of an external apparatus connected to the interface and outputting data representing the type of the external apparatus, and control means for controlling transmission of output data to the external apparatus through the interface, in accordance with the result of determining the type of the external-apparatus identifying means, (see Shear,

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[0282]), wherein the external-apparatus; identifying means determines whether the external apparatus is a copyright-related apparatus, and the control means controls the transmission of output data to the external apparatus through the interface, in accordance with result of determination (see Shear, [0054, 0057]).

In respect to claim 7, Shear discloses the data transmitting apparatus, comprising:

An interface that can be connected to various external apparatuses;
External-apparatus identifying means for determining a type of an external apparatus connected to the interface and outputting data representing the type of the external apparatus; and

Control means for controlling transmission of output data to the external apparatus through the interface, in accordance with the result of determining the type of the external-apparatus identifying means (see Shear 0282), wherein the control means controls the transmission of output data to the external apparatus through the interface, in accordance with an amount of the output data to be transmitted to the external apparatus (see Shear, [0092]).

In respect to claim 8, Shear discloses the data transmitting apparatus, comprising:

An interface that can be connected to various external apparatuses;
External-apparatus identifying means for determining a type of an external apparatus connected to the interface and outputting data representing the type of the external apparatus; and

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Control means for controlling transmission of output data to the external apparatus through the interface, in accordance with the result of determining the type of the external-apparatus identifying means (see Shear, [0282]),

wherein the control means controls the transmission of output data to the external apparatus through the interface, in accordance with a speed at which the output data is to be transmitted to the; external apparatus (see Shear, [0179]).

In respect to claim 9, Shear discloses the data transmitting apparatus, comprising:

An interface that can be connected to various external apparatuses; External-apparatus identifying means for determining a type of an external apparatus connected to the interface; and outputting data representing the type of the external apparatus; and control means for controlling transmission of output data to the external apparatus through the interface, in accordance with the result of determining the type of the external-apparatus identifying means (see Shear, [0282]) wherein data-reproducing means is provided for reproducing the output data from a recording medium, and the control means controls the transmission of output data to the external apparatus through the interface, in accordance with the recording medium (see Shear, [0220]).

In respect to claim 11, Shear discloses the data transmitting apparatus, comprising:

An interface that can be connected to various external apparatuses; External-apparatus identifying means for determining a type of an external

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apparatus connected to the interface and outputting data representing the type of the external apparatus; and control means for controlling transmission of output data to the external apparatus through the interface, in accordance with the result of determining the type of the external-apparatus identifying means (see Shear, 01 282]), further comprising- fee-charging means [is provided] for charging a fee in accordance with the transmission of output data through the interface, and the control means controls a fee-charging process performed by the fee-charging means, in accordance with the result of determination made by the external-apparatus identifying means of the type of the external apparatus (see Shear, [0092]).

In respect to claims 13-15 and 18-20, the claims limitations are method claims that are substantially similar to apparatus claims 3-4 and 7-9 and 11. Therefore, claims 13-15, and 18-20 are rejected based on the similar rationale.

In respect to claim 23, Shear discloses a data apparatus comprising: a plurality of interfaces of different types; and control means for controlling transmission of output data through the plurality of interfaces in accordance with the types of interfaces (see Shear, [0039, 0282 and 0220]).

In respect to claims 24-30, the claim limitations are substantially similar to claims 7-11. Therefore, claims 24-30 are rejected based on the similar rationale. In respect to claims 31-40, the claim limitations are method claims that are substantially similar to apparatus claim 23-30. Therefore claims 31-40 are rejected based on the similar rationale.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear et al. (U.S. Patent Application Publication, US 200110042043) in view of Ottesen et al. (U.S. Patent No. 5,654,747).

In respect to claim 41, Shear discloses a data transmitting method for use in a data transmitting apparatus for transmitting, through an interface, output data reproduced from a recording medium, the method comprising: a fee-charging control step of performing a fee-charging process in accordance with the transmission of output data through the interface and controlling the transmission of output data (see Shear [0092]). Shear does not explicitly disclose wherein the fee-charging control step is to perform the fee-charging process by "updating", in accordance with the fee to be charged, data recorded on the recording medium and corresponding to a sum of fees that can be charged for the recording medium, and to stop the transmission of output data through the interface when the data corresponding to the sum of fees reaches or exceeds a predetermined value. However, Ottensen discloses communicating a billing signal to the information network in response to each presentation of a downloaded source

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program (updating). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Ottesen by updating the billing information as information is downloaded from source with Shear's teaching of billing for the fee charging control system in order to allow for automatic billing for each program presentation to the customer's account (see Ottensen, col. 8, lines 5-9). Furthermore, Shear does not explicitly disclose stop the transmission of output data when the data corresponding to the sum of fees reaches or exceeds a predetermined value. However, Official Notice is taken that pay for view with predetermined selection of program by subscriber is old and well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate stopping output when data corresponding to the sum of fees reaches as in preselect pay for view program with Shear's fee charging control system in order to output program according to subscriber's predetermined on selected program they are interested to view.

In respect to claims 42-44, the claim limitations are substantially similar to claim 41. Therefore, claims 42-44 are rejected based on the similar rationale.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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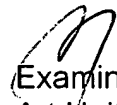
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran whose telephone number is (571) 272-3843. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Examiner: Tongoc Tran
Art Unit: 2134

September 14, 2005



GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100